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Counsel

March 23, 2019

Via ECF

Hon. James B. Clark, III, U.S.D.J.
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: Collick et al. v. William Paterson University et al.
Docket No. 16-471

Dear Judge Clark:

As you know, this office represents plaintiffs in the above matter. The purpose of this letter is to inform Your Honor of certain delays we have encountered in completing certain fact witness depositions and to request a brief extension of fact discovery.

By way of update, the parties have completed written discovery including the service of answers to interrogatories, responses to document requests and the exchange of thousands of pages of documents. The parties have completed the deposition of four fact witnesses to date: (1) defendant Sergeant Ellen DeSimone ("Sergeant DeSimone"), who was William Paterson University Police Department's ("WPUPD") lead investigator of the sexual assault allegations at issue; (2) defendant Robert Fulleman ("Mr. Fulleman"), the director of the WPUPD during the relevant time period; (3) plaintiff Garrett Collick; and (4) non-party witness Lori Ellicott, CMAC, the Administrator of the Wayne Municipal Court who Sergeant DeSimone called to request for arrest warrants for plaintiffs and the other falsely accused individuals. Despite the substantial progress made since our last conference with the Court, the parties have encountered issues with respect to completing four additional depositions due to circumstances beyond their control.

First, defendants had scheduled the deposition of plaintiff Noah Williams ("Mr. Williams") for this past Wednesday, March 20, 2019 at the Garden State Youth Correctional Facility where he had been incarcerated. However, on Monday, March 18, 2019, the parties learned that Mr. Williams was transferred to the Albert C. Wagner Youth Correctional Facility and that the new facility was unable to accommodate the scheduled deposition. Although defendants were able to reschedule Mr. Williams's deposition for this coming Thursday, March 28, 2019, we had to reschedule the subpoenaed deposition of Detective Maria Ingraffia ("Detective Ingraffia") of the Passaic County Prosecutor's Office to accommodate same.

Second, during the deposition of Sergeant DeSimone, the parties confirmed that an unsigned, undated and unlabeled list of criticisms of defendants' investigation of the alleged sexual assault was actually a memorandum authored by the Passaic County Prosecutor's office. Accordingly, on or about March 12, 2019, the undersigned duly served subpoenas for the depositions of Lisa Squitieri, Esq. ("Ms. Squitieri"), Chief Assistant Prosecutor assigned to the case, and Detective Ingraffia, the Prosecutor's Detective assigned to the case, for March 27, 2019 and March, 28, 2019, respectively, to inquire about, inter alia, the memorandum, the issues with WPUPD's investigation, and the results of the Prosecutor's Office's investigation of the alleged sexual assault. On March 21, 2019, the undersigned received correspondence from counsel for Passaic County acknowledging receipt of the subpoena for Ms. Squitieri's deposition and requesting a "brief" adjournment to allow counsel to review the matter "and discuss same with the Prosecutor's Office." See Ex. A. With respect to Detective Ingraffia, the undersigned has reached out to the Prosecutor's Office on several occasions to obtain and confirm a convenient date for the subpoenaed deposition, particularly in light of the issue with Mr. Williams's deposition discussed above, but has yet to receive a response. Ex. B.

Finally, on or about March 2, 2019, the undersigned served a subpoena for the deposition of Joanne Hatt, RN-FN-CSA ("Nurse Hatt"), the SANE Nurse who conducted a Forensic Medical Examination of the accuser, for March 13, 2019. On March 11, 2019, this office received a call from Gina Pfund, C.A.P. ("Ms. Pfund") advising that Nurse Hatt was on call and had another conflict that week. Ms. Pfund further advised that she would provide available dates for Nurse Hatt's deposition after conferring with Lisa Verlardi, C.A.P. ("Ms. Verlardi"), who handles civil litigation discovery requests for the Prosecutors' office. Again, although this office has repeatedly reached out to both Ms. Pfund and Ms. Verlardi, we have yet to receive any proposed new date for the subpoenaed deposition.

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Although the undersigned anticipates resolving the above issues with Passaic County Counsel and the Prosecutor Office and rescheduling both Ms. Squitieri, Detective Ingraffia, and Nurse Hatt's depositions in short order, more time is required to do so. In addition, Mr. Fulleman testified as to the existence of an Internal Affairs investigation conducted by a Terry Bogorad of which plaintiffs were previously unaware. Plaintiffs wish to explore this investigation via deposition of Ms. Bogorad but require more time to schedule and conduct same.

In light of the foregoing, the undersigned respectfully requests an additional 45 days to complete the above depositions as well as any and all remaining fact discovery. It must be noted that the remaining deponents' testimony is vital to plaintiffs' case and they will be substantially prejudiced if they are unable proceed with same. Please be advised that we have conferred with our adversaries, who do not oppose this request.

Thank you in advance for Your Honor's kind attention and understanding. Please do not hesitate to contact us if you have any questions or concerns.

Respectfully submitted,

/s/ Michael J. Epstein
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MJE/mar
Enclosures
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